

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DUANE FISHER, §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. H-12-1114
§
BILLY HIRSCH and TEXAS §
DEPARTMENT OF CRIMINAL JUSTICE, §
§
Defendant. §

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

This court has reviewed the Memorandum and Recommendation on Cross-Motions for Summary Judgment of the United States Magistrate Judge signed on July 5, 2013, and made a *de novo* determination. Rule 72(b), Fed. R. Civ. P.; 28 U.S.C. § 636(b)(1)(C); *United States v. Wilson*, 864 F.2d 1219 (5th Cir. 1989). Based on the pleadings, the record, and the applicable law, the court adopts the Memorandum and Recommendation as this court's Memorandum and Order. This court denies the summary judgment motion filed by the plaintiff, Duane Fisher (Docket Entry No. 51), and grants the summary judgment motion filed by the defendants (Docket Entry No. 50), for the reasons set out in detail in the Memorandum and Recommendation. Final judgment is entered by separate order.

SIGNED on July 29, 2013, at Houston, Texas.



Lee H. Rosenthal
United States District Judge